

REMARKS

Claims 1, 4, 5, 8 and 9 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Dear (U.S. Pat. No. 2,549,178). Claims 36-38 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Eaton (U.S. Pat. No. 3,876,242) in view of Templeman (U.S. Pat. No. 4,565,345). Applicants appreciate the Examiner's indication that claims 39-41 are allowed and that claims 6-7 and 24-25 would be allowable if rewritten in independent form to include all the limitations of the base claim.

Claims 1, 4-5, 8-9, 17-19 and 22-23 are Patentable over Dear

The Patent Office cites Dear as disclosing all of the elements of independent claim 1. Dear fails to disclose all the elements of claim 1. Specifically, Dear does not disclose "at least one acircular recess having a sidewall" nor does Dear disclose "a substantial portion of the perimeter of the base is engageable with the sidewall of the recess to prevent rotation", as required by claim 1. Dear merely discloses a small tab 28 located on a small portion of one side of the base 27, that only engages a small portion of the perimeter of the base 27, as best shown in FIG. 2 of Dear.

Independent claim 1 requires that there be at least one acircular recess having a sidewall and also requires that a substantial portion of the perimeter of the base is engageable with the sidewall of the recess to prevent rotation of the hitch ball during installation. A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); and MPEP §2133.

Dear fails to disclose at least one acircular recess having a sidewall, as required by claim 1. Instead, Dear merely discloses a flat surface that the base 27 of the hitch ball 12 mounts to. Specifically, there is no recess shown, just a hitch ball mounting aperture. Claim 1, instead, requires that there be at least one acircular recess having a sidewall. Therefore, claim 1 is clearly distinguishable over Dear.

In addition, Dear fails to disclose that a substantial portion of the perimeter of the base is engageable with the sidewall of the recess to prevent rotation of the hitch ball during installation, as required by claim 1. Instead, Dear discloses a small tab 28. The tab 28 only engages a very small portion of the base 27 to prevent rotation of the shank 25 during installation. Specifically, the force required to prevent rotation of the hitch ball during installation is applied only a very small portion of the base 27, namely the one small side of the base 27 that abuts the small tab 28. Claim 1, instead, requires that a substantial portion of the perimeter of the base of the hitch ball engages the sidewall of the recess to prevent rotation. The force required to prevent rotation of the hitch ball in the invention defined in claim 1, therefore, is spread over a substantial portion of the perimeter. Therefore, claim 1 is clearly distinguishable over Dear. Accordingly, Applicants respectfully submit that claim 1 is now in condition for allowance.

Claims 4-9, 17-19 and 22-25 depend directly or indirectly from independent claim 1 and add additional limitations thereto. These claims are believed allowable over Dear for the same reasons set forth with respect to independent claim 1 in which they depend. Therefore, Applicants respectfully submit that claims 1, 4-9, 17-19, and 22-25 are allowable over Dear.

Claims 36-38 are Patentable over Eaton in view of Templeman

Independent claim 36 requires “a hitch ball receiver having at least one acircular recess wherein the base is engageable with the recess to prevent rotation of the hitch ball during installation” and that “a substantial portion of the perimeter of the aperture [of the hitch receiver] is surrounded by the recess.” Claim 36 has been amended for clarification purposes only, in order to clarify that the recess is acircular.

Unlike the present invention, Eaton teaches a disc shaped base 12 that is not engageable with the raised rim 24 to prevent rotation of the hitch ball during installation. The hitch ball of Eaton is not engageable with the cavity to prevent rotation via a frictional engagement. There is no reference or suggestion of such in Eaton. In addition, Eaton states that the diameter of the raised rim 24 is slightly larger than the diameter of the ball base 12 (see Col. 2, lines 17-20). Therefore, even if Applicants were to presume some sort of frictional engagement between the two, there would not be enough friction created to prevent the rotation of the hitch ball during installation, as required in claim 36.

Claim 36 requires that a substantial portion of the perimeter of the aperture of the hitch receiver is surrounded by the recess to prevent rotation during installation. The force required to prevent rotation of the hitch ball in the invention as defined in claim 36 is spread over a substantial portion of the perimeter. Therefore, claim 36 is clearly distinguishable over Eaton. Accordingly, Applicants respectfully submit that claim 36 is now in condition for allowance.

Templeman teaches a vehicle mirror assembly. Applicants are unclear as how the Patent Office is attempting to modify Eaton with Templeman to satisfy the elements of the present invention as defined by independent claim 36.

Neither reference, taken individually or in combination, teaches or suggests a hitch ball receiver having at least one acircular recess wherein the base is engageable with the recess to prevent rotation of the hitch ball during installation, as required by claim 36. In addition, neither reference, taken individually or in combination, teaches or suggests that a substantial portion of the perimeter of the aperture of the hitch receiver is surrounded by the recess, as required by claim 36.

Moreover, Templeman fails to provide any motivation for combining the structure of the mirror assembly to a hitch ball assembly. Instead, the rejection appears to be formed using improper hindsight to combine two unrelated references.

Claims 37 and 38 depend directly or indirectly from independent claim 36 and add additional limitations thereto. These claims are believed allowable over Eaton in view of Templeman for the same reasons set forth with respect to independent claim 36 in which they depend. Therefore, Applicants respectfully submit that claims 36-38 are allowable over Eaton in view of Templeman.

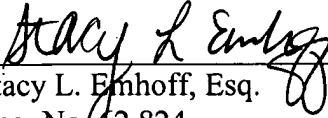


CONCLUSION

In light of the foregoing, Applicants submit that the application is now in condition for allowance, and accordingly, respectfully requests the allowance thereof. If the Examiner has any questions pertaining to the above, the undersigned attorney would welcome a phone call to provide any further clarification or a formal interview.

Respectfully submitted,

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